

MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS

OF

WESTERLY CREEK METROPOLITAN DISTRICT

Held: Wednesday, October 20, 2021 at 8:00 A.M. held via Zoom Conferencing at 720-707-2699; meeting ID: 921 1171 7886 Password: 613387.

ATTENDANCE

The meeting was held in accordance with the laws of the State of Colorado. The following directors were in attendance:

Tim Thornton,
Kristin Rozansky,
Katie Dell, – Left at 9:12 a.m.
Dave Ungemah,
Justin Ross;

Also present were:

- Megan J. Murphy, Esq. and Jennifer Tanaka, Esq., WHITE BEAR ANKELE TANAKA & WALDRON, Attorneys at Law, District General Counsel;
- John Simmons, Simmons & Wheeler, District Accountant;
- Shannon Gifford, City and County of Denver Mayor’s Office;
- Jacob With, Esq., Law of the Rockies;
- Brian Fennelly, Brookfield Properties Development;
- David A. Greher, Esq., Collins Cockrel & Cole; and
- Members of the Public.

ADMINISTRATIVE MATTERS

Call to Order

Ms. Murphy noted that a quorum of the Board was present and called the meeting to order.

Declaration of Quorum and Confirmation of Director Qualifications

A quorum for the Board was confirmed present and the director’s qualifications to serve were also confirmed.

Reaffirmation of Disclosures of Potential or Existing Conflicts of Interest

Ms. Murphy advised the Board that, pursuant to Colorado law, certain disclosures might be required prior to taking official action at the meeting. Ms. Murphy reported that disclosures for

those directors that provided White Bear Ankele Tanaka & Waldron with notice of potential or existing conflicts of interest were filed with the Secretary of State's Office and the Board at least 72 hours prior to the meeting, in accordance with Colorado law, and those disclosures were acknowledged by the Board. Ms. Murphy inquired into whether members of the Board had any additional disclosures of potential or existing conflicts of interest with regard to any matters scheduled for discussion at the meeting. No additional disclosures were noted. The participation of the members present was necessary to obtain a quorum or to otherwise enable the Board to act.

Approval of Agenda

The Board reviewed the proposed agenda for the meeting. Following discussion, upon motion by Mr. Thornton and seconded by Ms. Dell the Board unanimously approved the agenda as amended.

PUBLIC COMMENT

None.

CONSENT AGENDA

Ms. Murphy reviewed the items on the consent agenda with the Board. Ms. Murphy advised the Board that any item may be removed from the consent agenda to the regular agenda upon the request of any director. Upon a motion duly made by Ms. Dell and seconded by Mr. Ungemah, the following items on the consent agenda were unanimously approved, ratified and adopted:

- a. Minutes from September 27, 2021 Special Meeting; and
- b. Resolution No. 2021-10-01: 2022 Annual Administrative Resolution.

LEGAL MATTERS

Adoption of Resolution No. 2021-10-04: Resolution of Board of Directors Calling Election

Ms. Murphy presented the Resolution of the Board of Directors Calling the May 2022 Election. The Board determined to designate publishing the Call for Nominations in the Front Porch with a link to the District's website and posting it to the District's website. Following discussion, upon a motion duly made by Ms. Dell and seconded by Mr. Ungemah, the Board unanimously adopted the resolution and confirmed designation of the Call for Nominations.

Other Legal Matters

None.

FINANCIAL MATTERS

None.

Public Hearing on 2021

It was determined a 2021 Budget Amendment was not needed.

Budget Amendment and Consider Adoption of Resolution No. 2021-10-02

Public Hearing on 2022 Budget and Consider Adoption of Resolution No. 2021-10-03: Adopting Budget, Certifying Mill Levy and Appropriating Funds

Ms. Dell opened the public hearing on the proposed 2022 Budget. Ms. Murphy noted that the notice of public hearing was provided in accordance with Colorado law. No written objections have been received prior to the meeting. There being no public comment, the hearing was closed.

Mr. Simmons reviewed the 2022 Budget Resolution with the Board. The Board requested the following changes to the 2022 Budget:

- Election Line Item - \$35,000
- Legal - \$75,000
- Legal – Litigation - \$25,000
-

Following discussion, upon a motion duly made by Ms. Dell and seconded by Mr. Ungemah, the Board unanimously adopted the Resolution No. 2021-10-03 adopting the 2022 Budget, appropriating funds therefor and certifying 1.826 mills for the general fund, 59.037 mills for the debt service fund, subject to receipt of the final assessed valuation from Denver County and Adams County.

Other Finance Matters

Mr. Simmons noted that he reached out to multiple counties regarding specific ownership taxes and provided an update to the Board. He explained going forward an estimate of 6% of property taxes as revenue from specific ownership taxes seemed reasonable. No further action was taken.

EXECUTIVE SESSION

Regarding receiving legal advice as it relates to SDC Reduced Operations Plan and Intergovernmental Financing and Construction Agreement with Park Creek Metropolitan District and pursuant to § 24-6-402(4)(e), C.R.S., for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations,

Upon motion of Ms. Dell seconded by Mr. Thornton, and upon an affirmative vote of at least two-thirds of the quorum present, the Board entered in executive session at 8:32 A.M. for the purpose of obtaining legal advice related to the SDC Reduced Operations Plan and Intergovernmental Financing and Construction Agreement with Park Creek Metropolitan District pursuant to Section 24-6-402(4)(e), C.R.S.

Pursuant to Section 24-6-402(2)(d.5)(II)(B), C.R.S., no record will be kept of the portion of this executive session that, in the opinion of legal counsel to the District, constitutes privileged attorney-client communication pursuant to Section 24-6-402(4)(b), C.R.S.

instructing negotiators pursuant to § 24-6-402(4)(e), C.R.S.

Also pursuant to § 24-6-402(4), C.R.S., the Board did not adopt any proposed policy, position, resolution, rule, regulation or take formal action during execution session.

The Board reconvened in regular session at 9:15 A.M. No action was taken.

SDC UPDATE

Updates from SDC

The Board deferred this agenda item.

**MATTERS RELATED TO
PARK CREEK
METROPOLITAN
DISTRICT**

Discuss Appointment of Ex-Officio Board Members to the Park Creek Metropolitan District Board of Directors

The Board deferred this agenda item.

Consider Approval of Letter Agreement with Park Creek Metropolitan District

The Board deferred this agenda item.

Consider Approval of Letter Agreement with Brookfield Properties

The Board deferred this agenda item.

Consider Approval of Letter Agreement with SDC

The Board deferred this agenda item.

OTHER BUSINESS

Next Meeting

The board requested legal counsel coordinate a meeting in early November.

ADJOURNMENT

There being no further business to come before the Board, upon motion, second and unanimously carried, the Board determined to adjourn the meeting.

The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

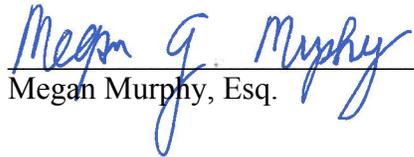

David Ungemah (Nov 9, 2021 11:02 MST)

Secretary for the District

The foregoing minutes were approved by the Board of Directors on the 8th day of November, 2021.

**ATTORNEY STATEMENT
REGARDING PRIVILEGED ATTORNEY-CLIENT COMMUNICATION**

Pursuant to Section 24-6-402(2)(d.5)(II)(B), C.R.S., I attest that, in my capacity as the attorney representing Westerly Creek Metropolitan District, I attended the executive session at a special meeting of Westerly Creek Metropolitan District convened at 8:32 A.M. on October 20, 2021 for the sole purpose of discussing the SDC Reduced Operations Plan and Intergovernmental Financing and Construction Agreement with Park Creek Metropolitan District as authorized by Section 24-6-402(4)(b), C.R.S. I further attest it is my opinion that all of the executive session discussion constituted a privileged attorney-client communication as provided by Section 24-6-402(4)(b), C.R.S. and, based on that opinion, no further record, written or electronic, was kept or required to be kept pursuant to Section 24-6-402(2)(b), C.R.S. or Section 24-6-402(2)(d.5)(II)(B), C.R.S.


Megan Murphy, Esq.